

Notice of Allowability

Application No.

10/621,344

Applicant(s)

ANCEL, JEAN-ERICK

Examiner

Janet L. Coppins

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Telephone Interview with Applicants' attorney, Ms. Baumeister, on 2/3/05.
2. ☒ The allowed claim(s) is/are 1-25.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/890,653.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Claims 1-25, 40-43, 48, and 49 are pending in the instant application.

Information Disclosure Statement

1. Receipt is acknowledged of Applicant's Information Disclosure Statement, filed July 18, 2003, which has been considered by the Examiner. Please refer to Applicant's copy of the PTO-1449 form submitted herewith.

Election/Restrictions

2. Applicant has elected with traverse the invention of Group VIII, claims 1-23, drawn to a process for preparing compounds of formula (I) wherein W is $-CR^4$ employing an intermediate compound of formula (II). In response to Applicants' arguments, the Examiner will rejoin Group IX, claims 24 and 25, for examination on the merits.

3. Claims 26-39 and 44-47 have been cancelled, and the non-elected subject matter has been deleted from claims I and 17-22. Accordingly, claims 1-25, in newly amended form, are in condition for allowance.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Mary Katherine Baumeister on February 4, 2005.

The application has been amended as follows:

(a) Please cancel claims 40-43, 48, and 49, as directed to non-elected subject matter.

Allowable Subject Matter

5. Claims 1-25 are allowable. The following is an examiner's statement of reasons for allowance:

This invention relates to novel processes of preparing N-phenylpyrazole derivatives according to formula (I), comprising:

- (a) reacting a compound (II) with a cyanide salt to give the desired phenylpyrazole compound (I), or optionally:
- (b) reacting a compound (II) with a cyanide salt to form an intermediate compound (III), which cyclizes to produce the desired phenylpyrazole compound (I).

The instant application is directed to a method of preparing pesticidal intermediates, particularly 5-amino-1-phenyl-3-cyanopyrazole derivatives. Phenylpyrazoles are known in the art as pesticides or pesticidal intermediates, and various methods of preparing the above-mentioned compounds are known. The method of reacting a phenylhydrazine with a halogenated alkene to obtain an amino-phenyl-cyanopyrazole is known in the art. However the aspect of employing an intermediate of formula (II), and finally reacting with a cyanide salt to obtain compounds of formula (I) is novel and unobvious. The allowable subject matter in this case is limited to a process for preparing derivatives of 5-amino-1-phenyl-3-cyanopyrazole, according to formula (I), of Claim 1. After a thorough search there is no prior art that even remotely suggests the preparation of the claimed compounds. The closest prior art of record, Buntain et al., teaches a similar preparation of halo-substituted phenyl cyano-pyrazoles, yet incorporates a halo-substituted alkene instead of a carbonyl compound with the phenylhydrazine to obtain the desired compounds. Therefore Buntain et al fails to teach or render obvious the instant claimed process of preparation, and does not fairly suggest the novel intermediate compounds or additional steps of synthesizing compounds according to formula I.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

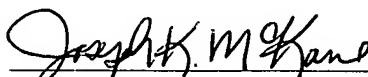
Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L. Coppins whose telephone number is 571.272.0680. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571.272.0699. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Janet L. Coppins
February 4, 2005



Joseph K. McKane
SPE, Art Unit 1626